

RECEIVED

OCT 22 2007

Kathleen A. Tartivita  
156 Bayside Drive  
P.O. Box 142  
Atlantic Highlands, N.J. 07716 - 0142  
Defendant, pro se (732) 872-2145

AT 8:30 \_\_\_\_\_ M  
WILLIAM T. WALSH  
CLERK

DISTRICT OF NEW JERSEY

WB MUSIC CORP. et als.

Plaintiffs  
vs.

DOCKET NO. 3:07-ev-3439(GEB)

JAY KAY JAY, INC. and  
KATHLEEN A. TARTIVITA

Defendants/Third Party Plaintiffs

Vs.  
CABLEVISION  
Third party defendants

**CIVIL ACTION  
NOTICE OF MOTION  
TO DISMISS FOR FAILURE TO STATE A CLAIM  
AND TO STAY DISCOVERY**

**RETURNABLE ON NOVEMBER 5, 2007**

**PLEASE TAKE NOTICE** that the undersigned will move before the above named Court on Monday, November 5, 2007 at 9:00 AM in the forenoon or as soon thereafter as they may be heard for an Order seeking the following relief:


- (1) To dismiss the complaint against the defendants.
- (2) To stay any and all discovery pending a hearing on this motion.

**PLEASE TAKE FURTHER NOTICE** that the relief requested may be granted by the Court unless timely written objection is filed with the Clerk of the Court.

The plaintiff will rely upon the attached Certification and Letter Brief in support of this Motion.

Oral argument is requested.

Dated: October 19, 2007

  
Kathleen A. Tartivita, pro se

Kathleen A. Tartivita  
PO Box 142  
Atlantic Highlands, NJ 07716  
(732) 872-2145

Office of the Clerk  
United States District Court  
402 East State Street  
Room 2020  
Trenton, NJ 08608

Re: WB Music Corp. et al vs. Jay Kay Jay, Inc and Kathleen Tartivita  
**Civil Action No 3:07-cv-03439 (GEB)**  
**Notice of Motion To Dismiss Complaint To Stay Discovery**

October 19, 2007

Dear Clerk,


Enclosed please find the original and one copy of a Notice of Motion, Certification in Support of Motion, Letter Brief, Proposed Form of Order and Certification of Service for Summary Judgement and other relief filed by the defendants, Jay Kay Jay, Inc. and Kathleen A. Tartivita.

These documents have been served upon the attorney for the plaintiffs as set forth in the attached Certification of Service.

This motion is returnable on November 5, 2007 and **ORAL ARGUMENT IS REQUESTED.**

Thank you in advance for your attention to this matter.

Yours truly,



Kathleen A. Tartivita

Priority Mail

Printout with documents: Schumann Hanlon, LLC

30 Montgomery Street, 15<sup>th</sup> Floor  
Jersey City, NJ 07302

Certified Mail RRR # 7007 0710 0000 2045 4625  
Anna C. Little, Esq. HAND DELIVERED

Kathleen A. Tartivita  
156 Bayside Drive  
P.O. Box 142  
Atlantic Highlands, NJ 07716 - 0142  
Defendant, pro se (732) 872-2145

DISTRICT OF NEW JERSEY

WB MUSIC CORP. et als.

Plaintiffs  
vs.

DOCKET NO. 3:07-cv-3439(GEB)

JAY KAY JAY, INC. and  
KATHLEEN A. TARTIVITA

Defendants/Third Party Plaintiffs

Vs.

CABLEVISION

Third Party Defendants

**CIVIL ACTION  
CERTIFICATION IN SUPPORT OF MOTION  
TO DISMISS AND OTHER RELIEF**

I, Kathleen A. Tartivita, defendant, pro se, by way of Certification in support of the defendants' Motion to dismiss the complaint and to Stay any and all discovery hereby say:

1. This is a suit for alleged copyright infringement by the corporate defendant Jay Kay Jay, Inc., operating as Pumps Plus, and Kathleen A. Tartivita.
2. Kathleen A. Tartivita is the president of the corporation and was brought into this case individually without good cause.
3. Since the corporate defendant at all times paid the licensing fees to play the copyrighted music allegedly played at the establishment the plaintiffs have no cause of action against the defendants.

4. At the time of the alleged copyright infringement (May 30, 2007), the defendants had paid and continue to pay ASCAP the license fees to play the works of the plaintiffs.
5. As set forth in the Certification filed in Support of the Summary Judgment motion to dismiss the first copyright infringement case (**Gnat Booty Music et als vs. Jay Kay Jay and Tartivita Docket Number 3:06 -cv-5522**) the defendants have been paying licensing fees since 1992 when the business first began operations.
6. ASCAP ( the real party in interest) is using the false claims of the plaintiffs and has filed this second suit in bad faith and in an attempt to gain jurisdiction in the District Court to extort money form the defendants.
7. The fact that ASCAP has accepted the license fees from the defendants, at the rate which they established, and still files a copyright infringement suit on behalf of the plaintiffs shows their bad faith and fraudulent actions.
8. As long as the defendants were and continue to pay the appropriate license fees there can be no copyright infringement and the plaintiffs have no cause of action in this case.
9. As previously stated we have been trying to minimize the legal fees in these totally baseless suits and we now request that any further discovery proceedings in this matter be stayed pending a hearing on this motion to dismiss. The plaintiffs, on the other hand have tried to increase their legal fees in an attempt to threaten the defendants into settling the case. They have acted at all times in bad faith.
10. For all of the above and in consideration of the attached letter brief, I respectfully request that my motion be granted and the complaint dismissed with prejudice.

Certification: I, the undersigned, hereby certify that the above statements made by me are true. I am aware that if any of the above statements made by me is willfully false, I am subject to punishment.

October 19, 2007



Kathleen A. Tartivita, pro se

Kathleen A. Tartivita  
156 Bayside Drive  
P.O. Box 142  
Atlantic Highlands, N.J. 07716 - 0142  
Defendant, pro se (732) 872-2145

DISTRICT OF NEW JERSEY

WB MUSIC CORP. et als.

Plaintiffs

vs.

DOCKET NO. 3:07-cv-3439(GEB)

JAY KAY JAY, INC. and  
KATHLEEN A. TARTIVITA

Defendants/Third Party Plaintiffs

Vs.

CABLEVISION

**CIVIL ACTION  
ORDER**

**THIS MATTER** having come before the Court by Notice of Motion of the Defendant, Kathleen A. Tartivita, all parties having been duly served and the Court having considered arguments for and in opposition of the relief requested and for good cause shown:

**IT IS HEREBY ORDERED** that

1. The complaint of the plaintiffs is hereby dismissed against the defendants Kathleen A. Tartivita and Jay Kay Jay, Inc. with prejudice.

A copy of this Order shall be served on all parties within seven (7) days.

---

John J. Hughes, US Magistrate Judge

Kathleen A. Tartivita  
156 Bayside Drive  
P.O. Box 142  
Atlantic Highlands, N.J. 07716 - 0142  
Defendant, pro se (732) 872-2145

US DISTRICT COURT  
DISTRICT OF NEW JERSEY

WB MUSIC CORP. et als.

Plaintiffs  
vs.

DOCKET NO. 3:07-cv-3439(GEB)

JAY KAY JAY, INC. and  
KATHLEEN A. TARTIVITA

Defendants/Third Party Plaintiffs

Vs.

CABLEVISION

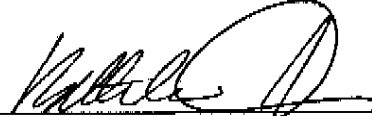
**CIVIL ACTION  
CERTIFICATION OF SERVICE**

I, the undersigned hereby certify that I filed a copy of the Notice of Motion Certification in Support of Motion, Letter Brief, Certification of Service and Proposed form of Order on

1. Clerk, US District Court, District of New Jersey, 402 State Street, Room 2020, Trenton, NJ 08608 by Priority Mail, on October 19, 2007.
2. Schumann Hanlon, LLC, 30 Montgomery Street, 15<sup>th</sup> Floor, Jersey City, NJ 07302, attorney for the plaintiffs by Certified Mail # 7007 0710 0000 2045 4625 RRR on October 19, 2007.
3. Anna C. Little, Esq. attorney for Jay Kay Jay, Inc. 426 Highway 36, Highlands, NJ 07732 HAND DELIVERED.

CERTIFICATION: I hereby certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements are willfully false, I am subject to punishment.

Dated: October 19, 2007

  
Kathleen A. Tartivita, pro se



UNITED STATES POSTAL SERVICE

www.usps.com



www.usps.com

From *K. L. TARTAGLIA*  
*PO BOX 142*  
*ATR. HIGHLANDS, NJ 07716*

TO OFFICE OF THE CLERK  
 UNITED STATES DISTRICT COURT  
 402 EAST STATE STREET  
 Room 2020  
 TRENTON, NJ 08608

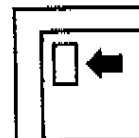
Label 226 September 2001

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3. ATTACH LABEL (Optional)  
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